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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

KEVIN SHAW,

Defendant and Appellant.

D044640

(Super. Ct. No. SCD180009)

APPEAL from a judgment of the Superior Court of San Diego County, Michael D. Wellington, Judge. Affirmed.

Kevin Shaw entered guilty pleas to three counts of robbery (Pen. Code, § 211),¹ and two counts of attempted robbery (§§ 664/211). He admitted a prior serious felony conviction and a prior strike. (Pen. Code, §§ 667, subds. (a)(1), (b)-(i), 1170.12, 668.) The court denied a motion to dismiss the prior strike and sentenced him to prison for 14

¹ All statutory references are to the Penal Code.

years four months: double the two-year lower term on one count of robbery with a prior strike with consecutive terms of two years each on the two other convictions of robbery with a prior strike and one year four months on one count of attempted robbery with a prior strike (double one-third the middle term), enhanced five years for the prior serious felony conviction. It imposed a concurrent term on the remaining attempted robbery conviction.² The court issued a certificate of probable cause. (Cal. Rules of Court, rule 30(b).)

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues: (1) whether Shaw was properly advised on his constitutional rights before entering the guilty pleas; (2) whether the court erred in refusing to dismiss the prior strike; and (3) whether the trial court denied Shaw of the right to jury trial on the consecutive sentences. (See *Blakely v. Washington* (2004) ____ U.S. ____ [124 S.Ct. 2531].)

We granted Shaw permission to file a brief on his own behalf. He has responded. Shaw contends that before he entered the guilty pleas, his trial counsel told him his

² Because Shaw entered guilty pleas, he cannot challenge the facts underlying the convictions. (§ 1237.5; *People v. Martin* (1973) 9 Cal.3d 687, 693.) We need not recite the facts.

sentence would be 10 years four months. However, when he entered the guilty pleas, Shaw told the court that no promises had been made regarding the sentence. The record before us provides no information on supporting Shaw's contention. "If the record on appeal sheds no light on why counsel acted or failed to act in the manner challenged, an appellate claim of ineffective assistance of counsel must be rejected unless counsel was asked for an explanation and failed to provide one, or there simply could be no satisfactory explanation. [Citation.] Otherwise, the claim is more appropriately raised in a petition for writ of habeas corpus. [Citation.]" (*People v. Carter* (2003) 30 Cal.4th 1166, 1211, citing *People v. Mendoza Tello* (1997) 15 Cal.4th 264, 266-267.)

A review of the entire record pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California*, *supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Shaw on this appeal.

DISPOSITION

The judgment is affirmed.

BENKE, Acting P. J.

WE CONCUR:

HUFFMAN, J.

IRION, J.